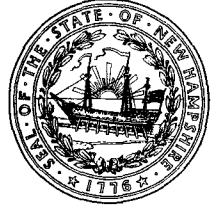




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Village at Winnepesaukee, Inc.
Attn: Dick O'Donnell
PO Box 5284
Laconia, New Hampshire 03247-5284

**ADMINISTRATIVE ORDER
BY CONSENT
No. WD 05-11**

Re: *Village at Winnepesaukee, Laconia*

A. INTRODUCTION

This Administrative Order by Consent is issued by the Department of Environmental Services, Water Division to, and with the consent of, Village at Winnepesaukee, Inc., pursuant to RSA 485-A:17. This Administrative Order by Consent is effective upon signature by all parties.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095.
2. Village at Winnepesaukee, Inc. ("The Village") is a New Hampshire corporation having a mailing address of P.O. Box 5284, Laconia, New Hampshire 03247-5284.

C. STATEMENTS OF FACTS AND LAW

1. Pursuant to RSA 485-A:17, DES regulates significant alteration of terrain and erosion control through a permit program. Pursuant to RSA 485-A:6, VIII, DES has adopted NH Administrative Rules Env-Ws 415 to implement this program.
2. Env-Ws 415.09(i) and (k) require employment of temporary and permanent methods for preventing soil erosion and controlling runoff.
3. Env-Ws 415.09(j) requires construction phasing and sequencing, including methods for limiting the length of time of exposure of unstabilized soils.
4. Village of Winnepesaukee, Inc. is the owner of property located in Laconia, NH, more particularly identified on City of Laconia Tax Maps as Map 23L, Lot 252-3 ("the Property").
5. In December of 2004 a new stormwater drainage system was completed at the Village in response to Letter of Deficiency, WMB-BWQ-2004-02 ("the LOD") issued to the Village on April 30, 2004.
6. On March 28, 2005, DES personnel conducted an inspection of the Property. An area approximately 40,000 square feet on the property was exposed and eroding. Erosion control measures that had been installed appeared to be inadequate. Water samples were collected

and analyzed for turbidity. The results were as follows:

Leaving the Village property from the new drainage system = 63.5 NTU's.

Entering Marina = 120 NTU's.

Normal background levels of Lake Winnepesaukee = less than 1 NTU.

7. Surface water runoff from the Property entered into Lake Winnepesaukee, a surface water of the state.
8. Pursuant to RSA 485-A:8, II, Lake Winnepesaukee is classified as a Class B water.
9. Pursuant to Env-Ws 1703.11(b), turbidity in Class B waters shall not exceed naturally occurring conditions by more than 10 NTUs.
10. RSA 485-A:13 states that it shall be unlawful for any person or persons to discharge or dispose of any sewage or waste to the surface or groundwater of the state without first obtaining a permit from DES. Sediment-laden water constitutes waste as defined under RSA 485-A.

D. DETERMINATION OF VIOLATIONS

1. The Village has violated RSA 485-A:17 and Env Ws 415.09(i) by failing to install adequate erosion control measures on the Property.
2. The Responsible Parties have violated RSA 485-A:13, I, by discharging waste into the surface waters of the state without obtaining a permit from DES to do so.

E. ORDER

Based on the above findings, DES hereby orders the Village, and the Village agrees to undertake and complete the following actions in accordance with the time schedules specified:

1. **Within 30 days of the date of this Order**, stabilize the Property as necessary to protect surface water quality and prevent erosion. At minimum the following activities shall be completed:
 - a) Install 6 inches of clean, crushed stone over the road;
 - b) Stabilize stockpiles by mulching with straw;
 - c) Bring site to final grade;
 - d) Loam, seed and mulch all exposed areas;
 - e) Install erosion control matting on all slopes steeper than 3:1.
2. The required work shall not be conducted until soil/site conditions are sufficiently dry as not to cause further erosion and sedimentation.
3. If work cannot be completed within 30 days, the Village shall request an approval from DES for an extension of the deadline.

4. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order by Consent to DES as follows:

Ana Herrero, Compliance Specialist
DES Water Division
P.O. Box 95, Concord, NH 03302-0095
Fax No.: (603) 271-4128
e-mail: aherrero@des.state.nh.us

F. CONSENT AND WAIVER OF APPEAL

1. By execution of this Administrative Order by Consent, the Village agrees that this Order shall apply to and be binding upon the Village, its officers, directors, successors and assigns their heirs, successors, and assigns, and agrees that this Order may be entered and enforced by a court of competent jurisdiction.
2. By execution of this Administrative Order by Consent, the Village waives any right to appeal this Administrative Order by Consent provided by statute, rule, or common law, including without limitation the right to appeal to the Water Council, and waives any right to object to the entry and enforcement of this order by a court of competent jurisdiction.

The Village at Winnepesaukee, Inc.

COPY
Doris Bognassini
By: *Doris Bognassini*
Duly Authorized *President*

May 16, 2005
Date

NH Department of Environmental Services

COPY
for [signature]
Harry Stewart, P.E., Director
Water Division

5/31/05
Date

COPY
Michael P. Nolin
Michael P. Nolin, Commissioner

05 31 05
Date

cc: Gretchen R. Hamel, Legal Unit Administrator
Public Information Officer, DES PIP Office
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
Laconia Conservation Commission
Laconia Planning Board
Jay Poulin, HE Bergeron Engineers